

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7889 OF 2021

Timestar Pvt. Ltd. & Anr.

...Petitioners

Vs.

State of Maharashtra & Ors.

...Respondents

Mr.Yakshay Cheeda i/b SSB Legal & Advisory for the Petitioners.

Mr.C.D. Mali, AGP for Respondent Nos.1 & 3-State.

Mr.Ganraj Shah i/b Prime Legal for Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : 20 SEPTEMBER 2022

P.C.

. Rule made returnable forthwith. The learned counsel for Respondent waives service. Heard finally by consent of the parties.

2. This Petition could be disposed of on a short count on the basis of a concession recorded by the contesting Respondents. The order impugned is passed by the Competent Authority under Section 11 of the Maharashtra Ownership of Flats (Regulation of The Promotion of Construction, Sale, Management & Transfer) Act, 1963 ('MOFA' for short), granting unilateral Deemed Conveyance. Admittedly that order is passed without oral hearing. This Court (M.S. Karnik, J.) by an order dated 2 August 2022 in WP No.549 of 2021 (Vijay Builders and Developers V/s. The Competent Authority, District Deputy Registrar Co-Op. Soc.,) has held that in view of Rule

13(5)(c) of the rules framed under MOFA the Competent Authority abide has to by the principles of the natural justice and hear parties. This court has *inter alia* held that the provisions of MOFA and the Rules framed thereunder leave no manner of doubt that the Competent Authority cannot dispense with the requirement of oral arguments while for deciding the Application for grant of Deemed Conveyance.

3. The learned counsel for the contesting Respondent No.2 in all fairness states that the appropriate orders can be passed in the circumstances. The learned counsel for the parties states that the pleadings are complete and the written submissions are also filed on record.

4. In such circumstances, the Petition is partly allowed. The impugned order dated 30 September 2021 in Application No.85 of 2021 is hereby set aside. The Application No.85 of 2021 is restored back to the file of the learned District Deputy Registrar for deciding it fresh in accordance with law and on its own merits, after hearing the parties.

5. The parties to appear before the District Deputy Registrar on 3 October 2022. The District Deputy Registrar shall decide the Application as expeditiously as possible and preferably within a period of two months from the date of appearance of the parties. The parties to co-operate for the time bound disposal of the Application.

6. Rival contentions of the parties are left open.

Rule is partly made absolute in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.